IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

FILED & ENTERED
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CLERK
U.S. BANKRUPTCY COURT
SAN JUAN, PUERTO RICO

IN THE MATTER OF :

ALAN WILLIAM WILDING MARTIN, : CASE NO. 04-05209(SEK)
JOHANA JIMENEZ CANDAL,
DEBTORS : CHAPTER 7

ORDER AND NOTICE

On March 15, 2007, the Trustee filed his final report and account and proposed distribution. This document shows he received $170,312.08 from the sale of real property described as a house located in Borinquen Gardens, Puerto Rico. This sum earned $250.34 in interest. The sums were used to pay the expenses and commissions of administering the estate, pay allowed claims and deliver of $3,746.58 of surplus funds to "Wilding Martin, Alan William". Mr. Wilding did not cash the check, and the Trustee deposited this sum as unclaimed with the Clerk of Court.

On February 19, 2008, co debtor Johanna Jiménez Candal represented by her attorney in fact, International Financial Locator, Inc., filed a motion to withdraw the surplus funds, and asked that these funds be paid to her as the wife of the deceased co debtor Alan William Wilding Martin. Mr. Wilding died in New Jersey. We denied her request stating that she had not proven she was entitled to the full sum.

On August 6, 2010, another attorney in fact, Dilks Knopik LLC, appearing on behalf of Christopher and Jennifer Wilding, filed a motion for the withdrawal the surplus unclaimed funds. Besides attaching Mr. Wilding's death certificate, they also attached a sworn statement indicating that they were of legal age, the only children and heirs of the deceased co debtor entitled to receive these funds.

While Mr. Wilding died in New Jersey, the surplus funds are derived from real estate located and sold in Puerto Rico. Therefore, its distribution is governed by the laws of the Commonwealth of Puerto Rico. These provide that asset is presumed to have belonged to the "sociedad legal de gananciales" roughly translated as conjugal society. If this is correct, then the Trustee should have deposited the surplus funds on a 50-50 basis in favor both debtors. The former spouse and codebtor would be entitled to 50% or $1,873.29, and the heirs of the deceased co debtor to an equal share in the remaining 50% of the surplus funds or $936.65 each. The heirs of Mr. Wilding, whom they claim died intestate, are established by a "Declaratoria de Herederos" and are entitled to 50% of the surplus funds once these are released by the Treasury Department of Puerto Rico.

Therefore, in order to distribute these funds according to the law we order the Trustee to review the matter and state whether the title to the house that was sold was in that name of the conjugal partnership created by the marriage of these debtors; whether he must amend his proposed distribution motion to deposit the unclaimed surplus funds. This shall be discussed at a hearing to be held on February 25, 2011 at 9:00 A.M (daylight savings time) in courtroom # 1 located in the U.S. Bankruptcy Court for the District of Puerto Rico, 300 Recinto Sur Street, Old San Juan, P.R. The Court will allow telephonic appearances if these are arranged ahead of the hearing by calling Mr. Alvin Centeno at (787) 977-6102.

SO ORDERED, in San Juan, Puerto Rico, on January 11, 2011.

SARA DE JESUS
U.S. Bankruptcy Judge